

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Grayling Davis

V.

Superintendent,
Old Colony Correctional Center

Civil Action No. 1:04-CV-10386-MLW

Counsel's Affidavit Re:
Motion for Extension of Time to Amend
(2254 Petition and Memorandum)

I, James M. Fox, state the following based upon personal knowledge, after review of the district court docket and my client's file:

1. I am an attorney licensed to practice law in the Commonwealth of Massachusetts. I am admitted to practice before the United States District Court for the District of Massachusetts.
2. On February 26, 2004, prior counsel, Attorney David Mark, filed a habeas corpus petition on behalf of Mr. Davis. The petition challenged Davis' state court conviction and incarceration in Massachusetts. Attorney Mark subsequently filed a notice of withdrawal. Following appointment by the Massachusetts Committee for Public Counsel Services, I filed an appearance on behalf of Mr. Davis,
3. On or about June 14, 2004, I submitted a scheduling request by letter, for the filing of a memorandum and amended habeas petition. The court allowed the request and ordered any amendment motion and supporting memorandum to be filed by August 6. By electronic endorsement, the court set the deadline at August 16.

4. Since the submission of the letter request, I completed my review of Mr. Davis' extensive state court trial transcript. Prior counsel raised twelve grounds for habeas corpus relief in the petition's paragraph 12. I am in need of additional time to (1) research authority in support of Mr. Davis' arguments; (2) conduct further review of the state court transcript to detail facts in support of his arguments; and (3) meet with Mr. Davis to determine whether issue consolidation or withdrawal is appropriate in an amended petition.

Signed under the penalties of perjury this 5th day of August, 2004.



James M. Fox, Esq.